

# ANALYSIS OF AMENDED BILL

## Franchise Tax Board

Author: Torlakson Analyst: Deborah Barrett Bill Number: AB 1175  
Related Bills: See Legislative History Telephone: 845-4301 Amended Date: April 14, 2009  
Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** Offsets/Nonpayment Of Bridge Toll Or High Occupancy Toll Lane Fees

### SUMMARY

This bill would allow debts owed for nonpayment of bridge tolls or high occupancy toll lane fees to be referred for the Interagency Offset Program that Franchise Tax Board (FTB) administers on behalf of the State Controller.

This bill contains provisions related to seismic retrofit projects for specified bridges that do not impact the department and are not discussed in this analysis.

### SUMMARY OF AMENDMENTS

The April 14, 2009, amendments added provisions to authorize amounts owed for unpaid bridge toll and high occupancy lane fees to be offset against pending refunds or lottery winnings. This is the department's first analysis of this bill.

### PURPOSE OF THE BILL

According to the author's office, the purpose of this bill is to assist in the recovery of unpaid bridge toll and high occupancy lane fees for local bridges.

### EFFECTIVE/OPERATIVE DATE

This bill would be effective January 1, 2010, and would be operative as of that date.

### POSITION

Pending.

### ANALYSIS

#### FEDERAL/STATE LAW

Under state law, the State Controller is authorized to collect money that is due to one state agency by an individual by deducting the amount owed from credits due to such individual by another state agency. This procedure is called an interagency intercept.

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FTB operates the Interagency Intercept Collection program on behalf of the State Controller. Annually, FTB's intercept process receives requests from state agencies, local governments, and the IRS to intercept tax refunds or lottery winnings of individuals or business entities that owe delinquent amounts to those federal, state, and local agencies. Refunds are available for intercept after all existing tax debts have been satisfied. If there is more than one agency-offset request, the priority is as follows:

1. Delinquent child or family support cases enforced by a district attorney.
2. Delinquent child or family support cases enforced by someone other than a district attorney.
3. Delinquent spousal support cases enforced by a district attorney.
4. Delinquent spousal support cases enforced by someone other than a district attorney.
5. Unemployment benefits overpayment cases.
6. All other state agencies.
7. Cities and counties.
8. Private and post secondary education.
9. IRS.

When there are multiple requests for offsets within the same class of requesters, the larger dollar value requests are paid before the smaller dollar amount requests.

#### THIS BILL

This bill would authorize the Controller to offset any state income tax refund or state lottery winnings to pay any amount owed for overdue and unpaid bridge toll or high-occupancy toll lane fee, including any interest, fine, penalty, bail, or collection fee due to a government entity from a person or entity.

The bill would provide that the Controller shall set the standards and procedures for submission of requests for offset. If there are insufficient funds available to satisfy an offset request, the Controller, after first applying the amounts available to any amounts due a state agency, may allocate the balance among any other requests for offset.

The bill would require any request for offset under these provisions to be submitted within three years of the date the bridge toll or high-occupancy toll lane fee was due.

The bill would authorize the Controller to deduct and retain from any amount offset an amount sufficient to reimburse the Controller, the Franchise Tax Board, the California State Lottery, and the Department of Motor Vehicles for their administrative costs of processing the offset payment.

#### IMPLEMENTATION CONSIDERATIONS

It is unclear which entity would be referred debts for offset. If an entity other than a state, city, or county agency refers the debt, it is recommended that the author clarify where these debts would fall in the priority for offsets when multiple offset requests are received for the same taxpayer.

The existing Interagency Intercept Program already has an established priority for payment when the amounts requested for offset exceed the amount to be offset, which is to satisfy each class of offset request identified above before offsetting the refund or lottery winnings to the next class of requesters. The bill's provisions would conflict with that priority by requiring any balance remaining after payment of state agency offset requests to be split among the remaining requests, which would include cities, counties, post and secondary education, and the IRS. This prorata distribution would require significant system reprogramming, which is discussed in the Fiscal Impact below.

The bill would require the Controller to deduct and retain any amount sufficient to reimburse the Controller, FTB, Lottery, and Department of Motor Vehicles. The current refund offset program bills program participants per submission to cover the costs of the program up-front, and not out of the amounts offset. To assist in the implementation of this bill, it is recommended that the author amend this bill so that the reimbursement structure would be the same as other participating agencies.

#### TECHNICAL CONSIDERATION

On page 4, line 6, the reference to "Bank and Corporation Tax Law" should be changed to read Corporation Tax Law.

#### LEGISLATIVE HISTORY

SB 92 (Aanestad, 2009/2010) would, among other things, provide for refund offsets for unreimbursed medical expenses incurred by a physician. This bill has been referred to the Committee on Health.

SB 314 (Calderon, 2009/2010) would revise the priority for refund offsets to place the nonpayment of penalties owed to the Restitution Fund in a higher priority than benefit overpayment accounts administered by the Employment Development Department and amounts owed to other state agencies. SB 314 is scheduled to be heard by the Senate Appropriations Committee on May 11, 2009.

#### FISCAL IMPACT

This bill would require reprogramming of the existing accounting system to split any refund amount among all eligible offset requests after payment of state agency requests. A cost estimate will be developed as the bill moves through the legislative process.

#### ECONOMIC IMPACT

The provisions of this bill would not impact state income tax revenues.

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